

February 8, 2005

Dear Honorable FCC Commissioners:

RE: Responding to 05-339 -February 8, 2005

In the FCC's recent public notice clarifying TRS rules regarding Improper Marketing Techniques (DA 05-141 Released: January 26, 2005), it clearly stated VRS is a form of TRS and therefore, all rules apply to the same effect as with TRS (except when noted as waived, as in the case with the speed of answer). NorCal Center on Deafness comments to this inquiry asking for additional comments on the speed of answer requirement for Video Relay Service (VRS).

The comments provided here are rather simply stated, primarily because the FCC's recent clarifications of its TRS rules are in sync with the Consumer's needs and several quotations are utilized from DA 05-141, 01-26-05, as an indication to reinforce that the FCC is on the right track. NorCal's supporting comments are reflective of the Consumers from its service region, specifically in the following 3 key areas:

1. FCC asks: What should the speed of answer time be for VRS calls?

COMMENT: PLEASE APPLY THIS SAME RULE BELOW TO VRS CALLS:

"Under the functional equivalency mandate, TRS is intended to permit persons with hearing and speech disabilities to access the telephone system to call persons without such disabilities. As we have frequently noted, "for a TRS user, reaching a CA to place a relay call is the equivalent of picking up a phone and getting a dial tone." Therefore, TRS is intended to operate so that when a TRS user wants to make a call, a CA is available to handle the call. For this reason, for example, the TRS regulations presently require TRS providers (except in the case of VRS calls) to answer 85% of all calls within 10 seconds. This "speed of answer" requirement was adopted so that the experience of a TRS caller in reaching a CA to place his or her call would be functionally equivalent to the experience of an individual without a hearing or speech disability placing a call. The Commission has noted that the "ability of a TRS user to reach a CA prepared to place his or her call ... is fundamental to the concept of 'functional equivalency.'"

2. FCC asks: "Should Call backs be prohibited once a speed of answer rule is adopted for VRS?"

COMMENT: PLEASE APPLY THIS SAME RATIONALE AND ITS RULE BELOW TO VRS:

"In addition, TRS providers may not offer their service in such a way so that when a TRS consumer (including a hearing person) contacts the TRS provider the consumer reaches only a message or recording that asks the caller to leave certain information so that the provider can call the consumer back when the provider is able (or desires) to place the call. This type of "call back" arrangement is impermissible because it relieves the provider of its central obligation to be available when a caller desires to make a TRS call, and permits the provider, and not the caller, to ultimately be in control of when a TRS call is placed. As we have noted, the functional equivalency mandate rests in part on the expectation that when a TRS user reaches a CA that is the equivalent of receiving a dial tone."

FCC further stated..."As we have noted, the purpose of TRS is to allow persons with certain disabilities to use the telephone system. Entities electing to

offer VRS (or other forms of TRS) should not be contacting users of their service and asking or telling them to make TRS calls. Rather, the provider must be available to handle the calls that consumers choose to make. For this reason as well, VRS providers may not require consumers to make TRS calls, impose on consumers minimum usage requirements, or offer any type of financial incentive for consumers to place TRS calls. "

3. "When should the speed of answer rule be effective?"

COMMENT: PLEASE ENFORCE ALL SPEED OF ANSWER REQUIREMENT FOR VRS TO BECOME EFFECTIVE IMMEDIATELY AND TO BE IN COMPLIANCE WITH THIS SECTION BELOW:

"Accordingly, because we interpret Section 225 and the implementing regulations to prohibit any practice that undermines the functional equivalency mandate, effective March 1, 2005, any provider offering or utilizing advance call reservations, or a recording that greets all calls to the TRS provider and takes information so that the provider can call the consumer back, will be ineligible for compensation from the Interstate TRS Fund".

In summary, since the FCC has clearly stated that VRS is a form of TRS, and because VRS has grown to be the TRS choice many Deaf Consumers use for placing calls, the need to cease waivers on speed of answer requirement remains critically important. NorCal Center on Deafness has received numerous complaints from Consumers pertaining to how long (average 8 - 30 minutes) it takes some providers to answer, just to get a dial tone, and with that wait, creates an unnecessary frustration and stressful environment, sometimes creating an emergency, when such waivers permits delays in the call process itself. Hence, the need for this decision to have been made, yesterday.

NorCal can indeed validate FCC's rules to attest to the needs of the Consumers using VRS, to have it also apply its functionally equivalent call process requirements. Deaf Consumers support FCC ruling: 1) in favor of a faster speed of answer for VRS calls, using the requirement currently defined for TRS - - as it is what Consumers are currently accustomed to having; 2) Need for Consumers to be in control their own calls and not receive "call backs" from Providers, to do so defeats the whole meaning of who's call it is controlled by the Consumer (deaf or hearing) who is using the VRS service as a tool for equal telecommunication access; and 3) Need for this decision on the speed of answer to become effective "immediately".

Lastly, as stated above, these comments are based on complaints and feedback shared from the community members we serve, I know for a fact many users support having the FCC rule on more more requirements to help us achieve access, and specifically in this case: requiring an average speed of answer as another step taken forward, for a more functionally equivalent telephone service using, VRS.

Submitted by,
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NorCal Center on Deafness